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USG-2

Public Law 90-634
90th Congress, H. R. 17324
October 24, 1968

An Act

To extend and amend the Renegotiation Act of 1951, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Renegotiation amendments. Antidumping Act determinations. International Coffee Agreement Act of 1968.

TITLE I—RENEGOTIATION AMENDMENTS ACT OF 1968

SEC. 101. This title may be cited as the "Renegotiation Amendments Act of 1968".

EXTENSION OF TERMINATION DATE

SEC. 102. Section 102(c)(1) of the Renegotiation Act of 1951, as amended (50 U.S.C. App., sec. 1212(c)(1)), is amended by striking out "June 30, 1968" and inserting in lieu thereof "June 30, 1971". 65 Stat. 8; 80 Stat. 232.

INFORMATION FURNISHED TO BOARD WITH RESPECT TO STANDARD COMMERCIAL ARTICLES

SEC. 103. Section 105(e)(1) of the Renegotiation Act of 1951, as amended (50 U.S.C. App., sec. 1215(e)(1)), is amended by inserting after the second sentence the following new sentence: "Any person who, but for the provisions of section 106(e)(1)(A), would not be relieved for a fiscal year from the filing requirements of the first sentence of this paragraph by reason of the preceding sentence shall furnish for such fiscal year such information with respect to the application of such provisions (and with respect to the aggregate specified in the preceding sentence) as the Board may by regulations prescribe as necessary to carry out this title." 70 Stat. 787. 50 USC app. 1216.

MANDATORY EXEMPTION FOR STANDARD COMMERCIAL ARTICLES AND SERVICES

SEC. 104. (a)(1) Paragraph (1) of section 106(e) of the Renegotiation Act of 1951, as amended (50 U.S.C. App., sec. 1216(e)), is amended—

(A) by striking out subparagraph (B),

(B) by inserting "or" at the end of subparagraph (A), and

(C) by redesignating subparagraph (C) as subparagraph (B).

(2) Paragraph (3) of such section is amended by striking out "or (C)" each place it appears.

(b) Paragraph (4) of section 106(e) of such Act is amended to read as follows:

"(4) DEFINITIONS.—For the purposes of this subsection—

"(A) the term 'article' includes any material, part, component, assembly, machinery, equipment, or other personal property;

"(B) the term 'standard commercial article' means, with respect to any fiscal year, an article—

"(i) which either is customarily maintained in stock by the contractor or subcontractor or is offered for sale in accordance with a price schedule regularly maintained by the contractor or subcontractor,

"(ii) the price of which under any contract or subcontract subject to this title is not in excess of the lowest price at which such article is sold in similar quantity by the contractor or subcontractor for civilian industrial or

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commercial use, except for any excess attributable to the cost of accelerated delivery or other significantly different circumstances, and

"(iii) from the sales of which by the contractor or subcontractor at least 55 percent of the receipts or accruals in such fiscal year are not (without regard to this subsection and subsection (c) of this section) subject to this title;

"(C) the term 'service' means any processing or other operation performed by chemical, electrical, physical, or mechanical methods directly on materials owned by another person;

"(D) the term 'standard commercial service' means, with respect to any fiscal year, a service—

"(i) the price of which under any contract or subcontract subject to this title is not in excess of the lowest price at which such service is performed under similar circumstances by the contractor or subcontractor for civilian industrial or commercial purposes, and

"(ii) from the performance of which by the contractor or subcontractor at least 55 percent of the receipts or accruals in such fiscal year are not (without regard to this subsection) subject to this title;

"(E) a service is, with respect to any fiscal year, 'reasonably comparable with a standard commercial service' only if—

"(i) such service is of the same or a similar kind, performed with the same or similar materials, and has the same or a similar result, without necessarily involving identical operations, as a standard commercial service from the performance of which the contractor or subcontractor has receipts or accruals in such fiscal year,

"(ii) the price of such service under any contract or subcontract subject to this title is not in excess of the lowest price at which such service is performed under similar circumstances by the contractor or subcontractor for civilian industrial or commercial purposes, and

"(iii) at least 55 percent of the aggregate receipts or accruals in such fiscal year by the contractor or subcontractor from the performance of such service and such standard commercial service are not (without regard to this subsection) subject to this title; and

"(F) the term 'standard commercial class of articles' means, with respect to any fiscal year, two or more articles with respect to which the following conditions are met:

"(i) at least one of such articles either is customarily maintained in stock by the contractor or subcontractor or is offered for sale in accordance with a price schedule regularly maintained by the contractor or subcontractor,

"(ii) all of such articles are of the same kind and manufactured of the same or substitute materials (without necessarily being of identical specifications),

"(iii) the price of each of such articles under any contract or subcontract subject to this title is not in excess of the lowest price at which such article is sold in similar quantity by the contractor or subcontractor for civilian

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industrial or commercial use, except for any excess attributable to the cost of accelerated delivery or other significantly different circumstances,

"(iv) all of such articles are sold at reasonably comparable prices, and

"(v) at least 55 percent of the aggregate receipts or accruals in such fiscal year by the contractor or subcontractor from sales of all such articles are not (without regard to this subsection and subsection (c) of this section) subject to this title."

EFFECTIVE DATES

SEC. 105. The amendment made by section 102 shall take effect as of June 30, 1968. The amendments made by sections 103 and 104 shall apply with respect to amounts received or accrued in fiscal years of contractors and subcontractors ending after the date of the enactment of this Act.

TITLE II—ADMINISTRATION OF THE ANTIDUMPING ACT, 1921

DETERMINATIONS UNDER THE ANTIDUMPING ACT, 1921

SEC. 201. (a) Nothing contained in the International Antidumping Code, signed at Geneva on June 30, 1967, shall be construed to restrict the discretion of the United States Tariff Commission in performing its duties and functions under the Antidumping Act, 1921, and in performing their duties and functions under such Act the Secretary of the Treasury and the Tariff Commission shall— 42 Stat. 9. 19 USC 160-171.

(1) resolve any conflict between the International Antidumping Code and the Antidumping Act, 1921, in favor of the Act as applied by the agency administering the Act, and

(2) take into account the provisions of the International Antidumping Code only insofar as they are consistent with the Antidumping Act, 1921, as applied by the agency administering the Act.

(b) No later than August 1, 1969, the President shall submit to the House of Representatives and United States Senate a report for the period beginning on July 1, 1968, and ending on June 30, 1969, which shall— Report to Congress.

(1) set out the text of all determinations made by the Secretary of the Treasury and the United States Tariff Commission under the Antidumping Act, 1921, in such period;

(2) analyze with respect to each determination in such period the manner in which the Antidumping Act, 1921, has been administered to take into account the provisions of the International Antidumping Code;

(3) summarize antidumping actions taken by other countries in such period against United States exports and relate such actions to the provisions of the International Antidumping Code; and

(4) include such recommendations as the President determines appropriate concerning the administration of the Antidumping Act, 1921.

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TITLE III—INTERNATIONAL COFFEE AGREEMENT ACT OF 1968

SHORT TITLE

SEC. 301. This title may be cited as the "International Coffee Agreement Act of 1968".

AUTHORITY FOR IMPLEMENTATION OF AGREEMENT

14 UST 1911-2202.

SEC. 302. On and after the entry into force of the International Coffee Agreement, 1968, and for such period prior to October 1, 1970, as the agreement remains in effect, the President is authorized, in order to carry out and enforce the provisions of that agreement—

(1) to regulate the entry of coffee for consumption, or withdrawal of coffee from warehouse for consumption, or any other form of entry or withdrawal of coffee such as for transportation or exportation, including (A) the limitation of entry, or withdrawal from warehouse, of coffee imported from countries which are not members of the International Coffee Organization, (B) the prohibition of entry of any shipment from any member of the International Coffee Organization of coffee which is not accompanied by a valid certificate of origin or a valid certificate of reexport, issued by a qualified agency in such form as required under the agreement, and (C) the imposition of special fees or such other measures as he deems appropriate to offset discriminatory treatment by other governments in favor of the export or reexport of processed coffee;

(2) to require that every export or reexport of coffee from the United States shall be accompanied by a valid certificate of origin or a valid certificate of reexport, issued by a qualified agency of the United States designated by him, in such form as required under the agreement;

(3) to require the keeping of such records, statistics, and other information, and the rendering of such reports, relating to the importation, distribution, prices, and consumption of coffee as he may from time to time prescribe; and

(4) to take such other action, and issue and enforce such rules and regulations, as he may consider necessary or appropriate in order to implement the obligations of the United States under the agreement.

DEFINITION OF COFFEE

SEC. 303. As used in section 302, "coffee" means coffee as defined in article 2 of the International Coffee Agreement, 1968.

DELEGATION OF POWERS AND DUTIES; PROTECTION OF UNITED STATES CONSUMERS

SEC. 304. The President may exercise any powers and duties conferred on him by this title through such agency or officer as he shall direct. The powers and duties conferred by this title shall be exercised in the manner the President considers appropriate to protect the interests of United States consumers. In the event the President determines that there has been an unwarranted increase in the price of coffee due in whole or in part to the International Coffee Agreement, the President shall request the International Coffee Council and the Executive Board to take appropriate action. At the same time he shall

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report his determination to the Congress. In the event the International Coffee Council has failed to take corrective action to remedy the situation within a reasonable time after such request, the President shall submit to the Congress such recommendations as he may consider appropriate to correct the situation.

REPORTS TO CONGRESS

SEC. 305. The President shall submit to the Congress an annual report on the International Coffee Agreement, 1968. Such report shall contain full information on the operation of such agreement, including full information with respect to the general level of prices of coffee and matters pertaining to the transportation of coffee from exporting countries to the United States. The report shall also include a summary of the actions the United States and the International Coffee Organization have taken to protect the interests of United States consumers.

14 UST 1911-2202.

PREVENTION OF DISCRIMINATION AGAINST UNITED STATES-FLAG SHIPS

SEC. 306. (a) Upon complaint of any interested party filed after the date of enactment of this title, the President shall promptly make an investigation to determine whether any exporting country which is a member of the International Coffee Organization, or group of exporting countries which includes any member of such Organization, is taking action which, directly or indirectly, discriminates, or threatens to discriminate, against vessels registered under the laws of the United States in the shipping of coffee to the United States. If the President finds that discrimination, or threat thereof, exists, he shall notify the Federal Maritime Commission which shall promptly make appropriate rules and regulations under section 19 of the Merchant Marine Act, 1920. If, within a reasonable time thereafter, the President finds that the effect of discrimination, or threat thereof, still exists, the authority conferred by section 302 shall cease to apply until such time as the President finds that the effect of discrimination, or threat thereof, has ceased to exist.

41 Stat. 995. 46 USC 876.

(b) The President shall cause to be published promptly in the Federal Register (1) a copy of each complaint filed under subsection (a), (2) the results of the investigation made with respect to each such complaint and his findings thereunder, and (3) in the case of each complaint with respect to which he makes an affirmative finding of discrimination, or threat thereof, any rules and regulations made by the Federal Maritime Commission pursuant to subsection (a) and each subsequent finding made by him under such subsection.

Publication in Federal Register.

(c) Nothing contained in subsection (a) shall be construed to affect the powers and duties of the Federal Maritime Commission determined without regard to the provisions of such subsection.

TITLE IV—MISCELLANEOUS AMENDMENT

SEC. 401. (a) Section 103(c)(6) of the Internal Revenue Code of 1954 (relating to exemption for certain small issues in the case of industrial development bonds) is amended by adding at the end thereof the following new subparagraphs:

Industrial development bonds, exemption. Ante, p. 267.

"(D) $5,000,000 LIMIT IN CERTAIN CASES.—At the election of the issuer, made at such time and in such manner as the Secretary or his delegate shall by regulations prescribe, with respect to any issue this paragraph shall be applied—

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"(i) by substituting '$5,000,000' for '$1,000,000' in subparagraph (A), and

"(ii) in determining the aggregate face amount of such issue, by taking into account not only the amount described in subparagraph (B), but also the aggregate amount of capital expenditures with respect to facilities described in subparagraph (E) paid or incurred during the 6-year period beginning 3 years before the date of such issue and ending 3 years after such date (and financed otherwise than out of the proceeds of outstanding issues to which subparagraph (A) applied), as if the aggregate amount of such capital expenditures constituted the face amount of a prior outstanding issue described in subparagraph (B).

"(E) FACILITIES TAKEN INTO ACCOUNT.—For purposes of subparagraph (D)(ii), the facilities described in this subparagraph are facilities—

"(i) located in the same incorporated municipality or located in the same county (but not in any incorporated municipality), and

"(ii) the principal user of which is or will be the same person or two or more related persons.

For purposes of clause (i), the determination of whether or not facilities are located in the same governmental unit shall be made as of the date of issue of the issue in question.

"(F) CERTAIN CAPITAL EXPENDITURES NOT TAKEN INTO ACCOUNT.—For purposes of subparagraph (D)(ii), any capital expenditure—

"(i) to replace property destroyed or damaged by fire, storm, or other casualty, to the extent of the fair market value of the property replaced,

"(ii) required by a change made after the date of issue of the issue in question in a Federal or State law or local ordinance of general application or required by a change made after such date in rules and regulations of general application issued under such a law or ordinance, or

"(iii) required by circumstances which could not be reasonably foreseen on such date of issue or arising out of a mistake of law or fact (but the aggregate amount of expenditures not taken into account under this clause with respect to any issue shall not exceed $250,000),

shall not be taken into account.

"(G) LIMITATION ON LOSS OF TAX EXEMPTION.—In applying subparagraph (D)(ii) with respect to capital expenditures made after the date of any issue, no obligation issued as a part of such issue shall be treated as an obligation not described in subsection (a)(1) by reason of any such expenditure for any period before the date on which such expenditure is paid or incurred.

"(H) CERTAIN REFINANCING ISSUES.—In the case of any issue described in subparagraph (A)(ii), an election may be made under subparagraph (D) only if all of the prior issues being redeemed are issues to which subparagraph (A) applies. In applying subparagraph (D)(ii) with respect to such a refinancing issue, capital expenditures shall be taken

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into account only for purposes of determining whether the prior issues being redeemed qualified (and would have continued to qualify) under subparagraph (A)." 82 STAT. 1350

(b) The amendment made by subsection (a) shall apply with respect to obligations issued after the date of the enactment of this Act. 82 STAT. 1351

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LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 1398 (Comm. on Ways and Means) and No. 1951 (Comm. of Conference).
SENATE REPORTS: No. 1385, 1385 pt. 2 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 114 (1968):
May 27: Considered and passed House.
Sept. 9, 11: Considered and passed Senate, amended.
Oct. 7: Senate agreed to conference report.
Oct. 10: House agreed to conference report.

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